

Exhibit H



2021-0024141

Recorded
Official Records
County of
Napa
JOHN TUTEUR
Assessor-Recorder-Co.

REC FEE

57.00

JW
Page 1 of 15

02:21PM 26-Jul-2021

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

Lester Hardy
P.O. Box 667
St. Helena, CA 94574

APN: 032-030-070, 032-030-071, 032-560-037 & 032-560-038



DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE LANDS OF THE TRUSTEES OF THE MARK NELSON AND DANA JOHNSON REVOCABLE TRUST

THIS DECLARATION is made on the date hereinafter set forth, by DANA JOHNSON, as TRUSTEE of THE MARK NELSON AND DANA JOHNSON REVOCABLE TRUST dated NOVEMBER 17, 2005 ("Declarant"), wherein title was acquired by Mark Nelson and Dana Johnson, Trustees:

SECTION 1: RECITALS

1.1 Description of Real Property.

(a) Declarant is the owner of that certain real property located in the County of Napa, State of California, and designated by the Napa County Assessor as Assessor's Parcels No. ("APN") 032-030-070 & 032-560-037 (separated for assessment purposes), commonly known as 275 Long Ranch Road, and more particularly described in Exhibit A, attached hereto (the "**Residential Parcel**").

(b) RED DIRT GRAPES LLC, a California limited liability, is the owner of that certain real property contiguous with the Residential Parcel, APN 032-030-071 & 032-560-038 (separated for assessment purposes) (the "**Undeveloped Parcel**"), more particularly described in Exhibit B, attached hereto.

(c) The Undeveloped Parcel and the Residential Parcel shall be herein referred to together as "**the Property**".

1.2 Protective Covenants. Declarant desires to establish certain protective covenants running with the land intended to support a future application for a vineyard erosion control plan ("**ECP**") on the Undeveloped Parcel.

NOW, THEREFORE, Declarant hereby declares for the benefit of the Undeveloped Parcel that the Residential Parcel shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved subject to the following declarations, limitations, covenants, conditions and restrictions. All of the limitations, covenants, conditions, and restrictions shall constitute covenants which shall run with the land and shall be binding upon

Declarant and its successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Residential Parcel.

SECTION 2: RESTRICTIVE COVENANTS

- 2.1 Lake Hennessey Watershed. With the exception of construction by the owner of the Undeveloped Parcel of (a) an agricultural access road in the general location of the jeep track shown on the attached Exhibit C, (b) an agricultural access road in the general location of the proposed easement for new road shown on the attached Exhibit E, and (c) in connection with such planting of species of concern to Napa County if so required as a condition of approval for an ECP, prior to creation of a conservation easement pursuant to Subparagraph 2.3.1 below no vegetation shall be removed within the area of the Lake Hennessey Watershed located on the Residential Property as shown on the Conservation Area Exhibit attached hereto as Exhibit D. The foregoing is not intended to limit vegetation removal on the Undeveloped Parcel.
- 2.2 Rector Reservoir Watershed. With the exception of construction by the owner of the Undeveloped Parcel of an access road in the general location of the proposed easement for new road shown on the attached Exhibit E, and with the exception of the buffer zone shown on Exhibit D, and in connection with such planting of species of concern to Napa County if so required as a condition of approval for an ECP, prior to creation of a conservation easement pursuant to Subparagraph 2.3.2 below no vegetation shall be removed within the area of the Rector Reservoir Watershed located on the Residential Property shown on Exhibit D. The foregoing is not intended to limit vegetation removal on the Undeveloped Parcel.
- 2.3 Covenant to Convey Easements. Upon approval of an ECP, the owner of the Residential Parcel shall convey the following conservation easements:
- 2.3.1. To the extent required as a condition of approval of the ECP, but only in so far as consistent with paragraph 2.1 above, a conservation easement for the benefit of the Undeveloped Parcel and Napa County to protect oak woodlands, tree canopy and other vegetation within the portion of the Residential Parcel that lies within the Lake Hennessey watershed, such easement to be substantially in the form attached as Exhibit F and otherwise reasonably acceptable to the parties and consistent with the ECP. Upon recordation of said conservation easement, the corresponding restrictive covenant set forth in Paragraph 2.1 above shall be deemed to be replaced with and limited to the terms of said conservation easement.
- 2.3.2. To the extent required as a condition of approval of the ECP, but only in so far as consistent with paragraph 2.2 above, a conservation easement for the benefit of the Undeveloped Parcel and Napa County to protect and preserve existing tree canopy and other vegetation within the portion of the Residential Parcel that lies within the Rector Reservoir watershed, such easement to be substantially in the form attached as Exhibit F and otherwise reasonably acceptable to the parties and consistent with the ECP. Nothing in this subparagraph 2.3.2 shall be deemed to restrict development of, or vegetation removal within, the area shown as a buffer zone on Exhibit D. Upon

recordation of said conservation easement, the corresponding restrictive covenant set forth in Paragraph 2.2 above shall be deemed to be replaced with and limited to the terms of said conservation easement.

2.3.3 To the extent required as a condition of approval of the ECP, an affirmative covenant for the benefit of the Undeveloped Parcel and Napa County that requires the planting and preservation of plant species of concern to Napa County within the portion of the Residential Parcel that lies within the Lake Hennessy watershed and/or the Rector Reservoir watershed, to mitigate the removal of such plant species on the Undeveloped Parcel in connection with the ECP, such restrictive covenant to be substantially in the form attached as Exhibit F, but with language specifying the planting and preservation requirements set forth in the ECP approval documents, and otherwise reasonably acceptable to the parties and consistent with the ECP. Nothing in this subparagraph 2.3.3 shall require such planting and preservation on the Undeveloped Parcel. The burden of compliance with said restrictive covenant shall be the sole responsibility of the owner of the Undeveloped Parcel. Grantor hereby grants to Grantee an easement to enter upon the Residential Parcel for planting and preservation of plant species for the purposes described above.

SECTION 3: USE RESTRICTIONS

- 3.1 Conformance with Law. All improvements shall be in conformance with all laws, ordinances, rules and regulations of the County and any other political subdivision having jurisdiction over the Property.
- 3.2 Modification. Any of the covenants, restrictions, or reservations set forth herein may be modified by an instrument signed by all the owners of the Property.
- 3.3 Enforcement. Enforcement of any of the provisions herein set forth in this declaration shall be at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation hereof or to recover damages for any such violation. Any such action or actions to enforce the terms hereof may be brought by any person or persons owning any interest in or parcel of the real property subject thereto.

SECTION 4: GENERAL PROVISIONS

- 4.1 Term. These covenants are to run with the land and shall be binding on all parties and their successors and assigns and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by all the owners of the parcels on the Property has been recorded, agreeing to a change of said covenants in whole or in part. This Declaration of Covenants, Conditions and Restrictions shall be recorded in the Office of the Napa County Recorder by Declarant forthwith following execution by Declarant.
- 4.2 Mortgage Savings Clause. Breach of any of said covenants and restrictions, or re-entry by reason of such breach, shall not defeat or render invalid the lien of any mortgage or

deed of trust made in good faith and for value as to any parcel on the Property, or any part thereof, but such provisions, restrictions or covenants shall be binding and effective against any owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

- 4.3 Severability. Invalidation of any of the covenants by judgment or order shall in no way affect any of the other provisions which shall remain in full force and effect.
- 4.4 Venue and Choice of Law. In any hearing, action or proceeding to enforce, interpret, or resolve any conflict under this Declaration, whether by arbitration or otherwise, the same shall be in the Superior Court of the State of California, County of Napa, and the terms of this Declaration shall be interpreted and governed by the laws of the State of California.
- 4.5 Notices. All notices and demands shall be given in writing either by (a) personal service or by (b) registered or certified mail, postage prepaid, and return receipt requested.


[Signatures follow on the next page]

IN WITNESS WHEREOF, Declarant has executed this Declaration.

Dated: July 23, 2021

DECLARANT:

DANA JOHNSON, TRUSTEE OF THE MARK NELSON AND DANA JOHNSON
REVOCABLE TRUST DATED NOVEMBER 17, 2005

By: 


Dana Johnson, Trustee

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Napa) ss.

On **July 23, 2021** before me, **L. Tschida**, Notary Public personally appeared **Dana Johnson** who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

SIGNATURE  _____

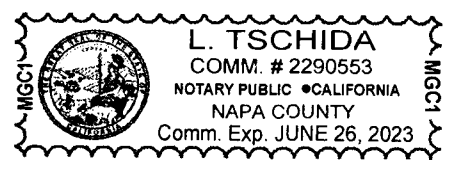


EXHIBIT A

Residential Parcel Legal Description

The land described herein is situated in the State of California, County of Napa, unincorporated area, described as follows:

PARCEL ONE: Beginning at the northeast corner of Parcel 7 as shown on Map No. 4989, filed November 19, 1997 in Book 22 of Parcel Maps at pages 32 through 43, said Napa County Records; thence South $4^{\circ} 14' 46''$ East 1229.58 feet; thence South $35^{\circ} 40' 25''$ West 208.84 feet to a $3/4''$ iron pipe tagged L.S. 4510; thence North $80^{\circ} 06' 50''$ West 583.58 feet to a $3/4''$ iron pipe tagged L.S. 4510; thence South $86^{\circ} 38' 56''$ West 666.82 feet to an angle point in the southern line of Parcel 6 as shown on said Map No. 4989, said point also being the most western corner of Parcel 7 as shown on said Map No. 4989; thence along the southwestern and southern lines of said Parcel 7 South $3^{\circ} 17' 58''$ East 1421.15 feet and South $89^{\circ} 44' 20''$ East 1379.55 feet to the southeast corner of said Parcel 7, said point also being the northwest corner of the northeast quarter of the southeast quarter of Section 18, Township 7 North, Range 4 West, Mount Diablo Meridian; thence along the West line of said northeast quarter of the southeast quarter South $3^{\circ} 56' 17''$ East 1469.98 feet to the southwest corner of said northeast quarter; thence along the South line of said northeast quarter of the southeast quarter South $87^{\circ} 48' 17''$ East 1399.70 feet to the southeast corner of said northeast quarter; thence along the East line of said Section 18 North $4^{\circ} 32' 09''$ West 2882.77 feet; thence leaving said east line of Section 18 South $89^{\circ} 03' 29''$ West 807.30 feet; thence North $9^{\circ} 00' 59''$ West 2581.71 feet; thence South $86^{\circ} 15' 30''$ West 281.16 feet to the east line of said Parcel 8 of said Map; thence along said east line South $1^{\circ} 08' 52''$ East 939.36 feet; thence South $3^{\circ} 56' 17''$ East 173.32 feet to the Point of Beginning.

APN: 032-030-070 & 032-560-037

EXHIBIT B

Unimproved Parcel Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF NAPA, STATE OF CALIFORNIA AND IS DESCRIBVED AS FOLLOWS:

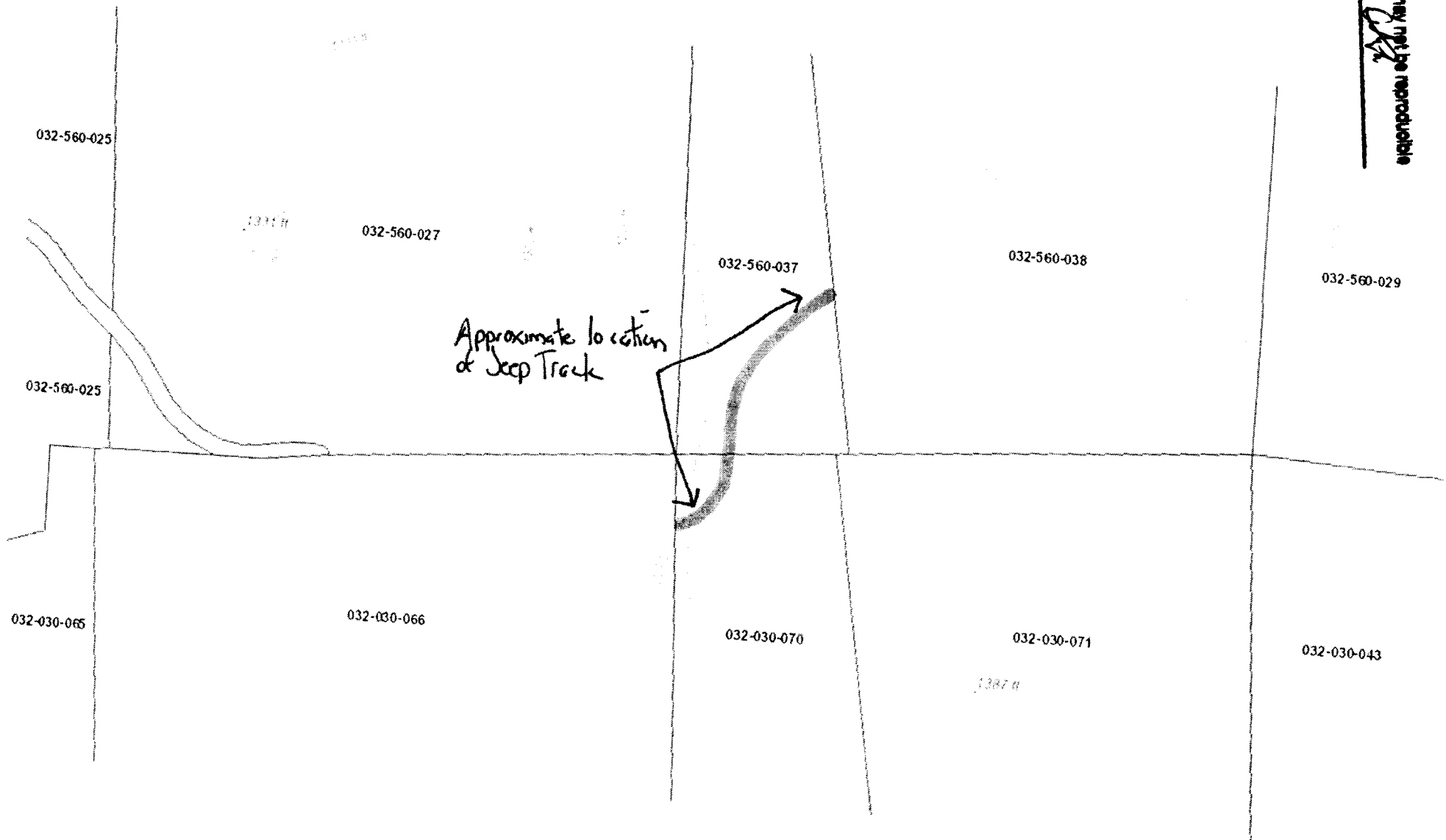
PARCEL ONE:

Commencing at the northeast corner of Parcel 7 as shown on Map No. 4989, filed November 19, 1997 in Book 22 of Parcel Maps at pages 32 through 43, said Napa County Records; thence along the east line of Parcel 8 of said map North 3° 56' 17" West 173.32 feet; thence North 1° 08' 52" West 939.36 feet; thence leaving said east line North 86° 15' 30" East 281.16 feet to the Point of Beginning; thence South 9° 00' 59" East 2581.71 feet; thence North 89° 03' 29" East 807.30 feet to the east line of Section 18, Township 7 North, Range 4 West, Mount Diablo Base Meridian; thence along the east line of said Section 18 North 4° 32' 09" West 1673.01 feet to the Northeast corner of said Section 18; thence along the east line of Section 7, Township 7 North, Range 4 West, Mount Diablo Base Meridian North 0° 06' 27" East 939.48 feet; thence leaving said east line South 86° 15' 30" West 1083.55 feet to the Beginning.

APN: 032-030-071 & 032-560-038

EXHIBIT C
Jeep Track Location

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BY: *[Signature]*

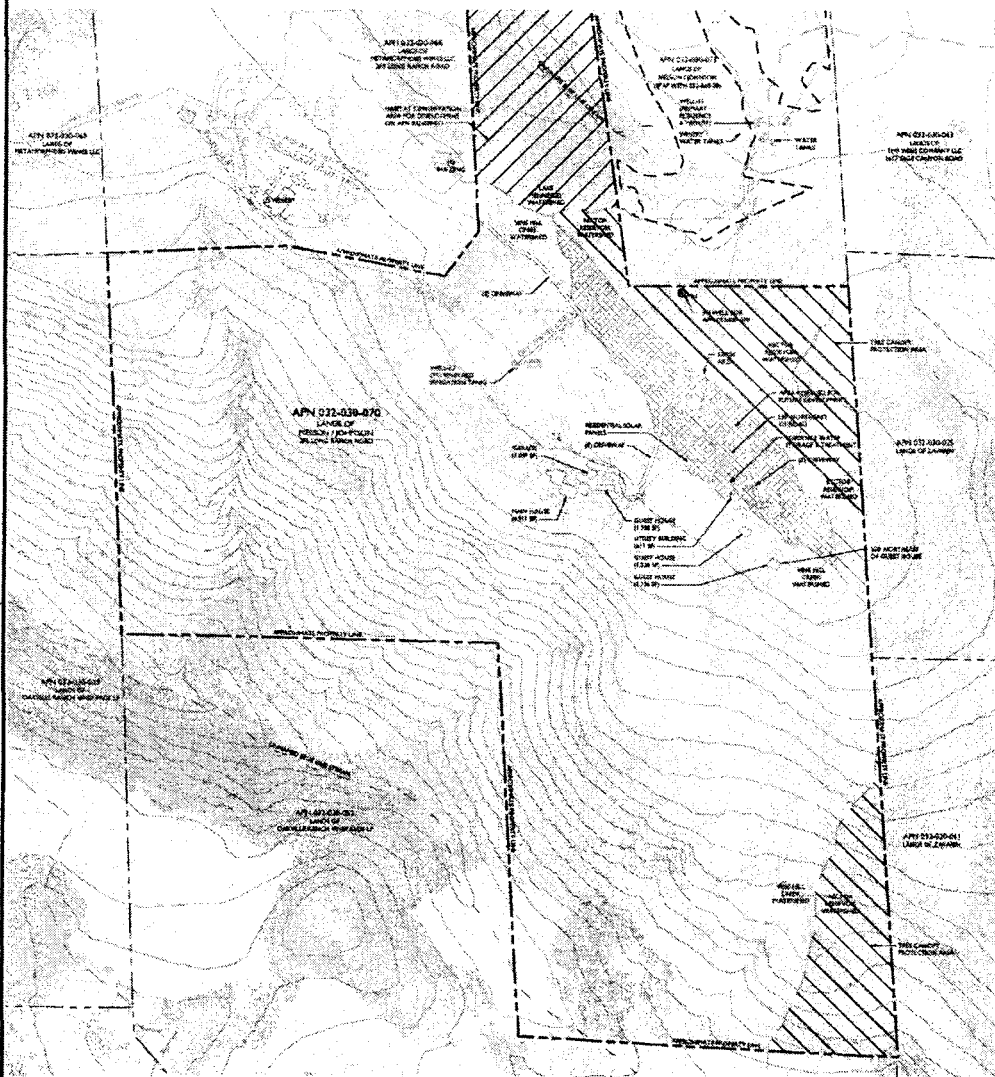


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BY: *MMG/DA*

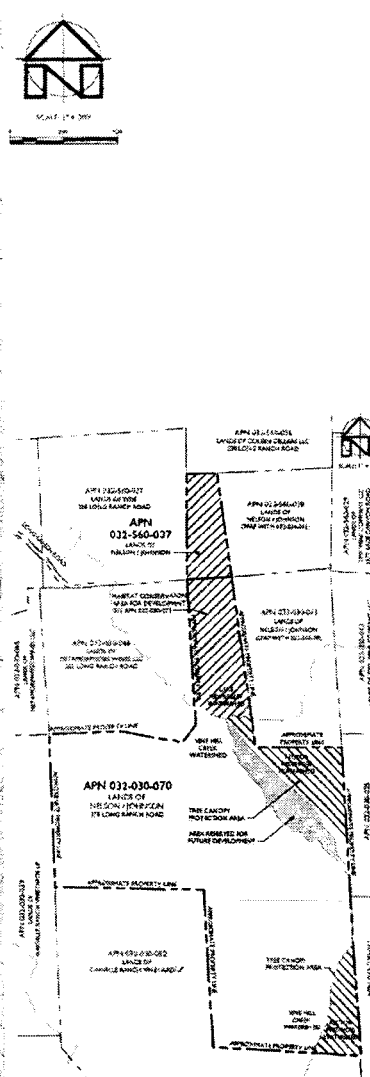
EXHIBIT D

NELSON / JOHNSON PROPERTY

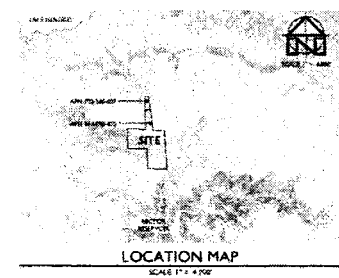
SITE PLAN EXHIBIT



SITE PLAN
SCALE 1" = 30'



OVERALL SITE PLAN
SCALE 1" = 30'



PROJECT INFORMATION:
PROPERTY OWNER & APPLICANT:
MARK NELSON & DANA JOHNSON
275 LONG RANCH ROAD
SAINT HELENA, CA 94574
SITE ADDRESS:
LONG RANCH ROAD
ASSESSOR'S PARCEL NUMBERS:
031-030-070 & 031-560-037 (SFAP)
PARCEL SIZES:
152.6 ± ACRES & 7.5 ± ACRES, RESPECTIVELY
ZONING:
AGRICULTURAL WATERSHED (AW)

FLOOD HAZARD NOTE:
ACCORDING TO THE FORMAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD HAZARD MAPS, THE PROJECT SITE IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA.

- NOTES:**
1. PAVED BACKCAMP REPRESENTS EXISTING (UNGRAVELLED) FEATURED TOPOGRAPHICAL INFORMATION TAKEN FROM THE SANTA CLAY COUNTY GEOGRAPHIC INFORMATION SYSTEM (GIS) DATA. APPLICANT, ENGINEERING PROFESSIONALS ASSOCIATES AND ASSUMED TO BE THE ACCURACY OF COMPLETION OF THE TOPOGRAPHICAL INFORMATION.
 2. AERIAL PHOTOGRAPHS WERE OBTAINED FROM THE SANTA CLAY COUNTY GEOGRAPHIC INFORMATION SYSTEM (GIS) DATA TAKEN APRIL TO JUNE 2008 AND MAY NOT REPRESENT CURRENT CONDITIONS.
 3. CONTOUR INTERVAL: TWENTY (20) FEET, HIGHLIGHTED EVERY TWENTY (20) FEET.
 4. BENCHMARK: NAD 83.
 5. THE PROPERTY LINES SHOWN ON THESE PLANS DO NOT REPRESENT A BOUNDARY SURVEY. THEY ARE APPROXIMATE AND ARE PROVIDED FOR GENERAL INFORMATIONAL PURPOSES ONLY.

LEGEND:

| | |
|-----|-------------------------------------|
| --- | APPROPRIATE PROPERTY LINE |
| --- | WATER-SHED BOUNDARY |
| --- | RELIEF DEMARK |
| --- | COGENERATION AREA |
| --- | TRAIL CANOPY PROTECTION AREA |
| --- | AREA RESERVED FOR "LAW ENFORCEMENT" |

APPLIED
ENGINEERING & ARCHITECTURE
1024 West L Street, Suite 100
1077 - 13th Street, Suite 100
San Francisco, CA 94103

PREPARED BY: *MMG/DA*
FOR THE: *MMG/DA*
DATE: APRIL 2011
SCALE: AS SHOWN

PROJECT: NELSON / JOHNSON PROPERTY
SHEET NUMBER: 1

APPLICANT: *MMG/DA*
CHECKED BY: *MMG/DA*
DATE: APRIL 2011
SCALE: AS SHOWN

PROJECT: NELSON / JOHNSON PROPERTY
SHEET NUMBER: 1

EXHIBIT F

| | |
|---|--------------------------------|
| <p>RECORDING REQUESTED BY AND PLEASE RETURN TO:</p> <p>OWNER</p> <p>John McDowell, Supervising Planner 1195 Third Street, Second Floor PBES Dept. Napa, California 94559</p> <p>Exempt from recording fees: Gov. Code § 27383; Exempt from documentary transfer tax: Rev & Tax Code §11922</p> <p>Assessor's Parcel No: 033-190-004</p> | <p>For Recorder's Use Only</p> |
|---|--------------------------------|

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this ____ day of _____ 2021, by _____ (the "Declarant") with reference to the following facts:

A. The Declarant is the owner in fee simple of certain real property within the unincorporated area of Napa County, State of California, designated Assessor's Parcel Number XXX-XXX-XXX on the Napa County Assessor's Maps in effect as of the date of this Declaration of Restrictive Covenants, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property");

B. The Property is subject to Agricultural Erosion Control Plan No. PXX-XXXXX-ECPA (the "ECPA") issued by the County of Napa (the "County") approving the development and subsequent operation of certain vineyards on the Property.

C. In connection with approval of the ECPA, Declarant has committed via a mitigation measure to the protection of xx-acres of the Property's remaining onsite oak woodlands, vegetation understory and assoated habitat, delineated as "Preserved Area" in Exhibit B attached hereto and and incorporated herein by reference, to be placed under a forever wild deed restriction for the benefit of the County (hereinafter referred to as the "Protected Area"). This Declaration is intended to fulfill the requirements of the commitment to put 21-acres of the Property's remaining oak woodland, vegetation understory and associated habitat under a deed restriction to provide protection in perpetuity for the Protected Area.

NOW, THEREFORE, the Declarant covenants as follows during the Term (as specified in Section 2 below) the following restrictions on the Protected Area:

1. Restrictions on uses within the Protected Area. No earthmoving, grading, improvements, buildings, or other types of structures inconsistent with the protection of the Protected Area as woodland, special species habitat and native habitat shall be erected, constructed or placed within the Protected Area, subject to the following provisions:

a) Declarant may manage vegetation within the Protected Area under the direction of the California Department of Forestry and Fire Protection ("CalFire") for fuel reduction purposes.

b) After consulting with a qualified biologist, ecologist, or other qualified professional, Declarant may adjust the boundaries of the Protected Area so long as the total area remains no less than

21-acres. The adjusted boundaries shall be approved by the Napa County Planning Division prior to implementation so long as the total area remains no less than 21 acres and is of equivalent or better quality from a vegetative composition and biological value perspective.

2. Term. This Declaration shall bind Declarant and its successors and assigns, is intended to run with the land, and may be enforced by the County. If the County believes that Declarant or its successor is in violation of this Declaration of Deed Restriction, the County shall notify Declarant or its successor, in writing, of County's findings and give Declarant or its successor at least thirty (30) days in which to cure said violation before initiating legal actions. If, however, such corrective action cannot be reasonably performed within said thirty (30) days, Declarant or its successor shall be allowed such additional time before legal action is initiated as is reasonably necessary so long as Declarant promptly commences and diligently pursues the cure to completion.

3. No Modification. This Declaration in no way modifies the terms of the ECPA, which shall control in the event of any conflict.

4. Automatic Cancellation of Declaration. This Declaration shall remain in effect so long as the ECP requiring the deed restriction remains in effect. Should Declarant or its successor abandon the activities permitted by the ECPA, Declarant may request in writing that the County terminate this Declaration. In addition, in the event the County adopts, and Declarant or its successor participates in, a mitigation bank or other conservation program for preservation of habitat that applies to the Oak Forest, this Declaration may, subject to County's approval, be terminated in accordance with such conservation program. In either event, Declarant or its successor may request that the County record a Notice of Cancellation of Declaration documenting the termination of this Declaration.

5. Entire Agreement. This Declaration constitutes the entire agreement between the parties and no other agreement, statement, or promise made by the parties which is not contained in this Declaration, shall be binding or valid. This agreement in no way expands or diminishes any rights of public access which may or may not exist across the Property. No modification of this Declaration shall be binding unless reduced to writing and signed by the parties.

Declared this _____ day of _____, 2021, at Napa, California.

DECLARANT:
NAME

COUNTY:
NAPA COUNTY, a political subdivision of the
State of California

By: _____
Name

By: _____
DAVID MORRISON, Director of Planning,
Building, and Environmental Services

By: _____
Name

| |
|--|
| <p>APPROVED AS TO FORM Office of County Counsel</p> <p>BY:</p> <p>Date:</p> |
|--|

Exhibit A
Legal Description

EXHIBIT B

Preserved Area



If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a “Restrictive Covenant Modification” form, together with a copy of the attached document with the unlawful provision redacted to the county recorder’s office. The “Restrictive Covenant Modification” form can be obtained from the county recorder’s office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

Removing unlawful restrictions: California law allows any person to file a "Restrictive Covenant Modification" form with the County Recorder where the property is located to remove unlawful restrictive covenants in recorded documents. The Restrictive Covenant Modification form must be completed and submitted to the County Recorder with a complete copy of the document containing the unlawfully restrictive language with the unlawfully restrictive covenant language redacted. The County Recorder will submit the form and document to County Counsel for a determination. Include your name and a return address on the upper left section of the form for the County Recorder to notify you of the action taken by County Counsel. As stated above, Restrictive Covenant Modifications forms are available from the County Recorder, or you may [click here](#) to access a Restrictive Covenant Modification form under the Legal Forms section.

Effective January 1, 2022